1939
(Courts)

File No. 255-39
SL No. 1, 12, 16, 17
22, 25

Action under the legal
Practitioners Act

PRESERVED

G. R. S. App. F. IX-4]

1939-

File No. 255-39

Previous References.

(Courts)

Serial Nos. 1, 12, 16
17, 22, 25

Law. 137 39 (1-5)

Later References.

cf Dep. 443/44

GENERAL AND REVENUE SECRETARIAT

Serial Nos. 6

PRESERVED

Part B for

SUBJECT.

Action under the Legal Practitioners Act.

G 39-40

P. Akerman Esq
18-1-44.

Serial No.

OFFICE OF THE FIRST MEMBER OF COUNCIL
OCT 19 1939
No 3816

DEWAN'S OFFICE
19 OCT. 1939
3143

I have submitted a note summarising the legal principles regulating the conduct of legal practitioners and indicating what acts would be considered misconduct which would involve disciplinary action against them. I have also placed a note regarding the cases of some of the advocates who have been convicted of offences.

2) In the first instance, action may be taken against the following persons who have been convicted of fairly serious offences and whose cases are fairly clear:-

1. Mr.K.T.Bhashyam Aiyangar. Sedition 124A I.P.C.
2. Mr.N.C.Thimmareddy. " "
3. Mr.H.Siddiah " "
4. Mr.T.Subrahmanyam " "
5. Mr.H.C.Dasappa " "
6. Mr.T.Sidlingaiah " 108 Cr.P.C.
7. Mr.Nijalingappa (Chitaldrug). Forest Satyagraha and rioting.

To be done early

3) The District Magistrates concerned will be asked to prepare briefs of their previous convictions, speeches, etc., and move the High Court under the Legal Practitioners Act. Action against others may be considered subsequently.

1st Member Dewan)

4) pm 14/10/39 C 19/10/39

5) Dhe 19-10-39

6) T.A 21.10.39

NOTE—Contn. Sheet.

File No. of 193

General and Revenue Secretariat
R. A. & L. C.

Serial No.

7) Please put D.O letters to D.C Bangalore Re 1, 2 & 6, Mysore Re 5, Shimoga Re 3, Tumkur Re 4 & Chitaldrug Re 7.

C
28/10/39

8) Submitted with a draft for approval

M.K.V.
28/10

Law Secy)

9) For personal hearing C 31/10.

1st Member) C 31/10

10) Seen
28/10/39

C 31/10/39

11) Done
BNR
22.10.39

OFFICE OF THE FIRST MEMBER OF COUNCIL
OCT 21 1939
No. 9873

SECY. LAW DEPT. 2108
21 OCT. 1939
GOVT OF MYSORE

Received instructions to issue from protection Branch
23/10
10 AM

To

The Dist. Magistrate, Bangalore Dist
Mysore "
Shimoga "
Tumkur "
Chitaldrug "

No. 34-38 Dy Camp Mysore 23.10.1939

Requests that necessary action may be taken to move the Hon'ble Court to take notice of the Conduct of Certain Legal practitioners.

Serial No.

OFFICE OF THE FIRST MEMBER OF COUNCIL
OCT 31 1939
No. 4964

From
The District Magistrate Shimoga
Do. No CC. 50/39-40 Dy 26.10.39
States that he is collecting the necessary materials and that he would make a reference to the High Court very early re. the action to be taken against Mr H. Siddaiya

From
The Dist. Magistrate Chitaldrug
Do. No CC. 8/39-40 Dy 26.10.39
States that it would be better to wait without taking action till the time for appeal or revision is over and requests instructions in the matter.

12) Subd for orders with reference
CSR 30/10

13) For perusal
BKR 30.10.39
Law Secy

14) Action may be taken after appeal
petition disposed, after a further report to Govt
1st Member
CM 31/10/39
BKR 31.10.39

15) Secy
31/10/39
CM 31/10
BKR 1.11.39

16) Subd with a draft
CSR 2/11

17) Secy
BKR 2.11.39

SECY. LAW DEPT. MYSORE
GOVT OF MYSORE

NOTE-Contn. Sheet.

Action under the Legal Practitioners Act

2720
308 R
of 1939.

Cls File No.

General and Revenue Secretariat.

Serial No.

To
The Dist. Magistrate Chitaldrug
-p 3046 Dt 3-11-39

States that there is no objection to his taking action against Mr Nijalingappa after the appeal time is over and that Govt may however be consulted before taking any action in the matter

From
The District Magistrate Chitaldrug.
Do. No Cl. 8/39-40 Dt 11-11-39

Requests instructions of Govt as to whether action against Mr Nijalingappa should be taken immediately ~~after the~~ or ~~before the~~ or after revision time is over or after the release of the prisoner.

(18) Submitted ~~after~~ orders with reference to paras 14 & 15 of the notes.

CAM 14/11

19) The District Magistrate seems to be under a mistaken impression. Mr Nijalingappa was convicted on 29.9.39 by 1st class Magistrate, Chitaldrug. He had a right of appeal which expired on or about 29.10.39. As he did not

Action to be taken under the Legal Practitioners Act

Serial No.

15 NOV 1939 3550

OFFICE OF THE FOR THE HOUR OF COUNCIL NOV 15 1939 No. 4643

not choose to exercise his right of appeal, no proceedings by way of revision are entertainable at his instance (see Sec. 439 (5) Cr. Pro. Code). The District Magistrate does not also seem to be correct when he opines that the period of limitation for filing a revision petition is six months.

2) Since the appeal time is over, and no revision lies, there seems to be no impediment for the District Magistrate to take necessary further action. It is however for consideration whether action should be taken immediately or whether it is expedient to take action after the Nijalingappa serves out his sentence of 18 months R.I. (and possibly an additional period of 6 months in default of payment of fine).

BDKR 14-11-39

Law Secy

3273 14.11.39.

2) Yes will

21) The Dt. Magte may move the High Court who will consider if necessary when & what action should be taken

1st Member

Ce 14/11

BDKR 15.11.39

Decree

22) Yes 15-11-39

15/11/39

15/11 BDKR 16.11.39

NOTE—Contn. Sheet

Action to be taken under the Legal Practitioners' Act

File No. 30 of 19

General and Revenue Secretariat.

Serial No.

Submitted with a draft

for approval

BKR 16.11.39

Law Secy

3356
16.11.39

CAN 16/11

17/11

BKR 17.11.39

Issued No. 3079 . Dt - 17.11.39

File Obtained from the Law Section 4.12.39.

Serial No.

From
The District Magistrate Chitaldrug
D.C. No CC 8/39-40 Dt 28.4.39

Forwards copy of a letter proposed to be sent to the High Court of Mysore re. the action to be taken in regard to Mr Nijalingappa practising in the Court.

2) The main file has been called for separately in connection with the proposal of the Dist Magistrate Kolar Dist to take similar action against certain Advocates.

3) The Dist Magistrate Chitaldrug orders of Govt as to whether he may address the High Court on the lines of the letter enclosed to the P.W.D

3) Please put up with the main file after it is received back

BKR
30.11.39

Law Comn Dy

4) Resubmitted with the file

4) The D.M. has prepared the report in consultation with the Government Advocate. It may be approved

BKR
5.12.39

Law Secy

Govt. Law Dept. (Legislative Section) 1939

Action under the Legal Practitioners Act

Cts File No. 2496/6 of 19

General and Revenue Secretariat.

Serial No.

(33) The D.C. Kaptā requested the report. The draft report is submitted.

1st Member

C
5/12/39

BDKR
6.12.39

Dlee
7/12/39

Cmp 7/12

BDKR
8.12.39

Submitted with a draft

Cmp 8/12

Dlee

BDKR
8.12.39

Returned for alterations 8.12.39

Resubmitted with a draft as directed

Cmp 20/12

BDKR
20.12.39

Law Secy

If approved, a reminder will be sent to the Asst. D.C. Kaptā. They may think that no action might be necessary on their part, since the Khan D.C. has taken action regarding him.

1st Member

Cmp

Dlee
22/12/39

BDKR
20.12.39

Cmp 22/12

Returned for alterations

3
28/12

OFFICE OF THE FIRST MEMBER OF COUNCIL
DEC 6 1939
No. 5496

SECY. LAW DEPT.
4441
20 DEC. 1939
H.E.H. M. SORE

OFFICE OF THE FIRST MEMBER OF COUNCIL
DEC 20 1939
No. 5759

Action under the Legal Practitioners Act

General and Revenue Secretariat. | File No. C. of 19 | [App. I. III-2

Serial No.

JAN 17 1940
No. 6805

From
The Dist. Magistrate Chitaldrug
Cr8 Q&R. 12.39.

Forwards Copy of a letter Dy 19.12.1939 from the Registrar High Court re. the action to be taken against Mr S. Nijalingappa, under the Legal practitioners Act.

The High Court have informed the Dist Magistrate Chitaldrug to report the matter again to the High Court as soon as Mr Nijalingappa is released from Jail.

No further action appears to be necessary on this at present. As the Dist Magistrate has solicited instructions in the matter, he may perhaps be informed that he may act according to the instructions issued by the High Court.

(It is noted that as the main file had been sent separately this could not be sent earlier)

BKR 15-1-40

Law Secy

Mr Rembg 6/16/1

BKR 17.1.40

17/1/40.

6/17/1

Noted for orders as to whether the draft may issue

BKR 18-1-40

BKR 19.1.40

He has been convicted to R.I for 1 year and 6 months and to a fine Rs 500/- or to R.I for Six months in default of payment of fine, the Sentences to run Consecutively.

CBR 1/1

SECY. LAW DEPT. 5003 16 JAN. 1940 GOVT OF MYSORE

NOTE–Contn. Sheet.

Action to be taken under the Legal Practitioners Act

6392-/4736

Cls File No. of 19

General and Revenue Secretariat.

Serial No.

From

The District Magistrate Chitaldrug District

~~C.C. No. 50/39-40 dt. 16.1.40~~

4893 dt. 19.1.40

States that he may take action in accordance with the instructions issued to him by the High Court

OFFICE OF THE FIRST MEMBER OF COUNCIL
JAN 23 1940
No. 6997

From

The Dist. Magistrate Shimoga

D.O. No. CC 50/39-40 dt. 16.1.40

Forwards copy of a letter dt. 8.1.1940 from the Registrar High Court re the action to be taken against Mr. H. Siddaiya under the Legal Practitioners Act.

Submitted for perusal.

(The High Court have asked the Dist. Magistrate Shimoga to report the matter again a month before the sentence passed on Mr H. Siddaiya expires. The Dist. Shimoga now states that he will report the matter in time to the High Court)

BKR
22.1.40.

Law Secy

Mr. Siddaiya ~~has been~~ convicted sentenced to R.I for 18 months and a fine of Rs 300/- and in default to R.I for 3 months more

Cfm 29/1 dom

SECY. LAW DEPT. 5/62 22 JAN. 1940 GOVT OF MYSORE

1st Reminder sent 25/1/40

BKR 25.1.40

BKR 26.1.40

Serial No.

Submitted for perusal

CSR
6/2
Dom.

Law Secy)

SECY. LAW DEPT. 5736 7 FEB. 1940 GOVT OF MYSORE

NOTE-Contd. Sheet

D.O.No. C.C. 1/39-40.

MYSORE POLICE

M. V. V. NAIK, ESQ.,
SUPERINTENDENT OF POLICE,
RYS. & C. I. D. IN MYSORE.

BANGALORE CITY

Dated Oct., 19, *193* 9

Camp- Mysore.

Dear Sir,

As desired, I am sending a list of Advocates who have been prosecuted under several sections of the Indian Penal Code, Code of Criminal Procedure, Mysore Police, Act, Mysore Public Security Act and Mysore Forest Act, with their disposals.

Some more reports regarding the arrests, if any, of the Advocates, are awaited from districts, and will be submitted for the information of Government, as soon as they are received.

Yours obediently,

19/10

C.Subramanya Aiyar, Esq., B.A., B.L.,
Secretary to Government,
Law Department, Camp- Mysore.

1. H.Siddiah, Advocate,	Shimoga,	Sec:124-A, I.P.C. dated 31-3-39 70 M.P.A. 13-4-38 (Amnesty)	Speech at Sagar	Dist .Court, Shimoga,	C.C.5/38-39 24-4-1939	18 months R.I. & Rs.300/- fine, i/d 3 months R.I
2. T.Subramanyam,	-do- Tumkur,	-do- Dated 9-4-39	Speech at Tumkur	Dist.Mag.Court, Tumkur,	C.C.3/38-39 5-5-1939	1 year's R.I. & Rs.300/- fine, i/d 2 months R.I.
Sec:17 Cl(1) Cr.Law Amendment Act(Bagalkot)						
3. N.C.Thimma Reddy,	-do-, Dodda-ballapur,	-do- 29-7-1939	Speech at Bowringpet.	Addl.Session Judge's Court, Bangalore.	C.C. /39-40 15-9-1939	2 years R.I. & Rs.500/- fine, i/d 6 months R.I.
124-A, I.P.C. Conviction set aside in High Court, one withdrawn.						
4. Mahabala Rao,	-do- Mandya,	-do- 22-8-1939	Speech at Basaral.	Dist.Mag.Court, Mandya.	C.C.1/39-40	Pending trial.
		Nil				
5. Doraswamy	Kolar,	-do- 26-8-1939	Speech at S.Patam.	-do-	C.C.2/39-40	
-do-	-do-	-do- 25-8-1939	Kyathanahalli,	-do-	C.C.3/39-40	
		Nil				
6. T.Mariappa,	-do- Mysore,	107 Cr.P.C. 25-9-1939 70 M.P.A. 12-5-38 (Amnesty)	Mysore	F.C.M's Court, Mysore	Cr.Mis.No.12/39-40	Ordered to execute a bond for Rs.1000/- with two sureties for a like sum each, for keeping the peace for a period of 1 year, Declined to give sureties, sent to jail.
7. H.G.Dasappa,	-do-, Mysore,	Sec:73 M.P.A. 15-8-1939	Kolar Gold Fields;	Spl.F.Cl.Mag. Court, K.G.F.	C.C. /39-40 18-8-1939.	3 months R.I.
124-A, I.P.C. on 6-12-37(Amnesty) 70 & 73 M.P.A. 12-4-38(-do-)						
8. K.Chengalaraya Reddy,	-do- Kolar.	-do-	-do-	-do-	-do-	-do-
& 70(a)& 73 M.P.A. Sivapur, on 12-4-38(Amnesty)						
9. K.T.Bhashyam,	-do- B.City.	-do-	-do-	-do-	-do-	-do-
124-A, I.P.C. on 8-11-37(Amnesty) & 70 M.A.P.A. 12-4-38(Amnesty).						

20.Palahalli Sitaramiah,Advocate, Mysore, Nil	Sec:4 Cl(c) M.P.S.A.	Mysore	G.O.1005-14/C.B.45-39-15 dated 3-10-1939	Ordered to remove himself from the limits of Mysore and Mandya Districts and not to return to these districts for a period of 1 month or until further orders of Government.
21.M.Shankariah, Pleader,Mysore, 188 I.P.C. on 14-5-38(Amnesty)	-do-	-do-	G.O.1035-1044/C.B.45-39-18 dated 3-10-1939.	-do- -do- Violated the order and came to Mysore on 17.10.39 and was convicted u/s 10 M.P.S.A. Also convicted u/s 188 I.P.C. for having made a speech at Town Hall, Mysore, on 17-10-1939.
22.Chikkalingiah,Advocate, Mandya, Nil	Sec:3(M.P.A.) Mandya,	Mandya,	G.O.1191-94/C.B.45-39-30 dated 5-10-1939	Ordered to be detained in custody in the District Lock-up of Hassan for a period of 1 month from 3-10-1939.
23.B.Narayanaswamy, -do- Mysore, Nil	-do-	Mysore,		Ordered to be detained in custody in Mysore Jail for a period of 2 months from -1939.
24.Govinda Reddy, M.A. LL.B.	Sec: 7 M.P.A. 4-5-38 15.8.39	K. G. A.	Spl I cl Court K. G. A. 18. 8. 39	3 Months R. I
25. J. Narasimha Iyengar. Advocate. Mysore	Sec 3 of M.P.S.A	Mysore	G.O. No.	ordered to be detained in custody in Mysore Jail for a period of 15 days from 16.10.1939.

Confidential.

Camp Mysore

D.O. P34-38/Ct Dt. 23.10.39

Dear Sir,

I am desired to request you to kindly take necessary action in consultation with the Government Advocate to make a reference to the High Court to take notice of the conduct of the marginally noted legal practitioners in the exercise of its disciplinary jurisdiction under Sections 10 and 11 of the Legal Practitioners Act. I am to enclose for your information a brief note showing what acts on the part of a legal practitioner have been held by judicial decisions to fall within the disciplinary jurisdiction of High Courts. The previous convictions, the speeches made by them and their other acts of incitement or of a subversive nature may be examined and detailed in support of your reference to the High Court.

Yours sincerely

To

The Dt. Magistrates of (1) Bangalore
(2) Mysore
(3) Shimoga
(4) Tumkur
(5) Chitaldrug.

Dt. Magistrate, Bangalore.

1. Mr. K.T. Bhashyam Aiyangar.
2. Mr. N.C. Thimmareddy.
3. Mr. T. Siddalingiah.

Dt. Magistrate, Mysore.

Mr. H.C. Dasappa

Dt. Magistrate, Shimoga.

Mr. H. Siddiah.

Dt. Magistrate, Tumkur.

Mr. T. Subrahmanyam

Dt. Magistrate, Chitaldrug.

Mr. Nijalingappa.

Mr. C. Subrahmanya Aiyar, M.A., B.L.,
Secretary to Government,
Law Department.

D.O. No. P 34-38 | CTS

CRIMINAL & REVENUE CHAMBERS,
Camp Mysore, dated 23rd October 1939

Confidential.

Dear Sir,

I am desired to request you to kindly take necessary action in consultation with the Government Advocate to make a reference to the High Court to take notice of the conduct of the marginally noted legal practitioner in the exercise of its disciplinary jurisdiction under Sections 10 and 11 of the Legal Practitioners Act. I am to enclose for your information a brief note showing what acts on the part of a legal practitioner have been held by judicial decisions to fall within the disciplinary jurisdiction of High Courts. The previous convictions, the speeches made by them and their other acts of incitement or of a subversive nature may be examined and detailed in support of your reference to the High Court.

Yours sincerely,

P 34/ CTS Abdul Aziz Khan, Esq., B.A.,
District Magistrate, Bangalore.

P 35/ CTS K. Subba Rao, Esq., B.A.,
District Magistrate, Mysore.

P 36/ CTS M. Seshadri, Esq., M.A.,
District Magistrate, Shimoga.

P 37/ CTS K. Guru Dutt, Esq., B.A.,
District Magistrate, Tumkur.

P 38/ CTS Mahomed Ismail Sheriff, Esq., B.A.,
District Magistrate, Chitaldrug.

NOTE.

The following acts on the part of legal practitioners have been held to bring them under disciplinary jurisdiction:

(1) Taking a pledge to break laws or refusal to obey laws;

(2) Speech inciting people to break the laws or to incite them to acts tending to subvert order; this is inconsistent with the duty of a legal practitioner to assist in the administration of the laws of the country;

(3) Inciting an audience to defy orders of dispersal or inciting to do acts which involve a breach of the peace;

(4) Incitement to non-payment of taxes or other notified liability, etc;

(5) Advising people to close their shops as a protest against the contemplated imposition of a system of license tax;

(6) Inciting or counselling the public to boycott the courts;

(7) Deliberately joining or continuing to be a member of an association which has been declared unlawful under the provisions of a statute;

(8) Illegal acts committed in pursuance of Salt Satyagraha or Forest Satyagraha and incitement to such acts;

(9) Joining the civil disobedience movement the object of which is to paralyze the Government by disregarding law and order by civil methods;

(10) Advising disobedience of magisterial orders under Sec.144 etc.;

(11) Exhorting students to join Satyagraha movement;

(12) Conviction for holding a public meeting in defiance of an order of the Government or the Police prohibiting such a meeting;

(13) Conviction for disobeying an order of internment under the Special Powers Emergency Ordinance. (A.I.R. 1934 Calcutta 242);

(14) Convictions under Sec.17 of the Criminal Law Amendment Act and for offences under Sections 124-A and 153-A. They undoubtedly imply a defect of character in a legal practitioner. (A.I.R. 1935 Calcutta 742)

The following decisions may be perused for reference:

XXXVI Mysore High Court Reports 233;
A.I.R. 1931 Patna 208 and 369
" 1931 Nagpur 33
" 1924 Madras 129
" 1924 Lahore 123
" 1928 Calcutta 853
" 1934 Lahore 259
" 1934 Calcutta 242
I.L.R. 44 Bombay 418

NOTE.

The following acts on the part of legal practitioners have been held to bring them under disciplinary jurisdiction:

(1) Taking a pledge to break laws or refusal to obey laws:

(2) Speech inciting people to break the laws or to incite them to acts tending to subvert order: this is inconsistent with the duty of a legal practitioner to assist in the administration of the laws of the country:

(3) Inciting an audience to defy orders of dispersal or inciting to do acts which involve a breach of the peace:

(4) Incitement to non-payment of taxes or other notified liability, etc;

(5) Advising people to close their shops as a protest against the contemplated imposition of a system of license tax:

(6) Inciting or counselling the public to boycott the courts:

(7) Deliberately joining or continuing to be a member of an association which has been declared unlawful under the provisions of a statute:

(8) Illegal acts committed in pursuance of Salt Satyagraha or Forest Satyagraha and incitement to such acts;

(9) Joining the civil disobedience movement the object of which is to paralyze the Government by disregarding law and order by civil methods:

(10) Advising disobedience of magisterial orders under Sec.144 etc.;

(11) Exhorting students to join Satyagraha movement;

(12) Conviction for holding a public meeting in defiance of an order of the Government or the Police prohibiting such a meeting:

(13) Conviction for disobeying an order of internment under the Special Powers Emergency Ordinance. (A.I.R. 1934 Calcutta 242);

(14) Convictions under Sec.17 of the Criminal Law Amendment Act and for offences under Sections 124-A and 153-A. They undoubtedly imply a defect of character in a legal practitioner. (A.I.R. 1935 Calcutta 742)

The following decisions may be perused for reference:

XXXVI Mysore High Court Reports 233;
A.I.R. 1931 Patna 208 and 369
" 1931 Nagpur 33.
" 1924 Madras 129.
" 1924 Lahore 123.
" 1928 Calcutta 853
" 1934 Lahore 259
" 1934 Calcutta 242
I.L.R. 44 Bombay 418

D.O.No. C.C. 50/39-40 2683/P

Mr. M. SESHADRI, M.A.,
Deputy Commissioner.

OFFICE OF THE DEPUTY COMMISSIONER,
SHIMOGA DISTRICT,

Shimoga, dated the 26th Octr. *19* 39

Dear Mr. Subrahmanya Aiyar,

With reference to Mr. Ramakrishnaiya's D.O. letter No. P. 36/Cts. dated the 23rd instant about making a reference to the High Court about Mr. Siddaiya under the Legal Practitioners' Act, I write to say that I am collecting all the necessary materials and shall make a reference very early in consultation with the Government Advocate.

Yours sincerely,

M Seshadri

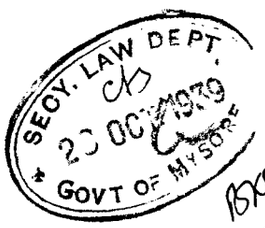
2723 p 39

Mr. MOHAMED ISMAIL SHERIFF, B.A.,
District Magistrate.

**OFFICE OF THE DISTRICT MAGISTRATE,
CHITALDRUG DISTRICT.**

D. O. *No.C.C.8/39-40*

Dated Chitaldrug 26th October 1939..



Dear Sir,

I write to acknowledge the receipt of your kind D.O. - letter No.P.38/Cts, camp Mysore dated 13rd October 1939 in the matter of taking notice of the conduct of Mr.Nijalingappa - under the Legal Practioner's Act. In this connection, I write to state that I have already considered the matter and taken some advice. It appears to me that it would be better to wait without taking any action till the time for appeal or revision is over. I understand that in other parts of India, such - action has been taken only after the legal practioner concerned had served out his full period and was thinking of resuming the practice. Mr.Nijalingappa is now sentenced to 1½ years R.I and a further ~~time~~ term of six months in case he fails to pay the fine of Rs.500/-. Thus he is safely away for two years.

If the Government agree with me, I shall postpone taking action till after the period of 6 months which is the time for revision is over. I shall await reply to this letter before taking any further action in the matter.

Yours sincerely,

C. Subrahmanya Aiyer, Esq., B.A., B.L.,
Secretary to Government,
Law Department,
Bangalore.

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

D.O. No. P3046
& 3.11.39

Dear Sir

With Reference to Your D.O letter No C.C 8/39-40 & 26.10.1939 Regarding the notice to be taken of the Conduct Of Mr Nipalingappa under the Legal practioners Act, I am desired to State that Govt have no Objection to Your taking necessary action in the matter after the appeal time is over. A further reference may however be made to Govt before taking action in this behalf.

Yours Sincerely

Mahomed Ismail Sheriff Esq/BA
Dist. Magistrate, Chikkaballapur.

3019

WD 0436—GPB—10,000—17-10-33

D.O No.P3046

2nd November 1939.

Dear Sir,

With reference to your D.O. letter No.C.C.8/39-40 dated 26th October 1939 regarding the notice to be taken of the conduct of Mr.Nijalingappa under the Legal Practitioner's Act, I am desired to state that Government have no objection to your taking necessary action in the matter after the appeal time is over. A further reference may however be made to Government before taking action in this behalf.

Yours sincerely,

Mahomed Ismail Sheriff, Esq., B.A.,
District Magistrate, Chitaldrug.

Chitaldrug.

3082

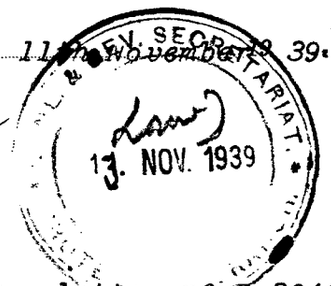
P.

Mr. MOHAMED ISMAIL SHERIFF, B.A.,
Deputy Commissioner.

OFFICE OF THE DEPUTY COMMISSIONER,
CHITALDRUG DISTRICT.

D. O. C.C.8/39-40.
Enc; Dxx nil

Dated Chitaldrug 11th November 19 39.



CONFIDENTIAL

Dear Sir,

With reference to your D.O., letter NO.P.3046 dated 3rd November 1939 stating that Government have no objection to my taking action against Mr. Nijalingappa under the Legal Practioner's Act, after the appeal time is over, I write to state that the person referred to above having been convicted on 29th September 1939, the period of appeal is over long back i.e., on 29-10-39 Further it is also openfor the party to go in revision only on a point of law, if at all he chooses to do it. In view of this the question of taking action will - have to be postponed for a period of six months(which is ordinarily the time limit for revision). I therefore solicit the favour of early instructions from the Government whether action should be taken immediately as the appeal time is over or whether action to dxxixxx report against him to the High Court for cancellation of his sanad taken after revision time is over or - after his release, when he thinks of resuming the - practice.

I have looked into the several authorities mentioned in your kind D.O., letter NO.P.38/Cts. Camp, Mysore dated 23-10-39 and I wish to bring to the kind notice of Government that incase immediate action is deemed necessary, it will become necessary for me to proceed to Bangalore on a suitable date to consult the Government Advocate before a report is drafted to the High Court for ~~presentation~~ consideration and obtain further needful instructions in the matter in person from Government.

Favour of an early reply is requested.

Yours sincerely,

C. Subrahmanya Aiyar, Esq., B.A., B.L.,
Secretary to Government of Mysore,
Law Department, Bangalore.

17th November 1939.

CONFIDENTIAL.

D. O. No. 3979

Dear Sir,

With reference to your D.O. letter No.C.C.8/39-40 dated 11th November 1939 soliciting instructions of Government regarding the action to be taken against Mr. Nijalingappa under the Legal Practitioners' Act, I am desired to state that you may take necessary action to move the High Court in the matter at an early date.

Yours sincerely,

BKR

Mahomed Ismail Sheriff, Esq., B.A.,
District Registrate, Chitaldrug.

Ks

D.O. No. P3079 & 17.11.39

Confidential

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

Dear Sir

With reference to Your D.O. letter No C.C. 8/39-40 Dt 11.11.1939 Soliciting instructions of Govt regarding the action to be taken against Mr Nijalingappa under the Legal practitioners' Act, I am desired to state that You may ~~move the High~~ Court ~~in the matter~~ who will Consider, if necessary, when and what action Should be taken. ~~in the matter~~ ~~behalf~~.

take necessary action ~~to~~ move the High Court in the matter at an early date.

Yours Sincerely

BKP 16.11.39

To

Mahomed Ismail Sheriff Esq BA.
Dist. Magistrate, Chitaldrug

WD 0282—GPB—22,500—14-3-38

Mr. Mahomed Ismail Sheriff, B.A.,
Deputy Commissioner.

Office of the Deputy Commissioner,
Chitaldrug District.
Dated, Camp) Hosadurga, 19th Nov. 193

D.O.No.C.C.8/39-40

Encl:- One.

Law Secy with
Complts for favour
of a speedy
20/11

Dear Sir,

Adverting to D.O.letter No.P.3079 dated 17th November 1939 from the Secretary to Government, Law Department, Bangalore (copy enclosed) intimating that necessary action to move the High Court re: proceeding against Mr. Nijalingappa under the Legal Practioner's Act, may be taken at an early date, I write to solicit the favour of - instructions from the Government, whether I may go to Bangalore for a day to consult the Government Advocate and take further legal advice there in this connection.

Yours sincerely,

Rajasevaprasakta
B.T. Kesaviengar, Esq., B.A.,

Chief Secretary to Government,

Bangalore.

Send with
draft & fair
of a letter
CBR
20/11

BKR
20.11.39

Issued No P 3413 dt 20-11-39

D.O. letter No.P.3079 dated 17th November 1939 from the Secretary to Government, Law Department, Bangalore, to the District Magistrate, Chitaldrug District.

With reference to your D.O.letter No.C.C.8/39-40 dated 11th November 1939 soliciting instructions of Government regarding the action to be taken against Mr.Nijalingappa under the Legal Practioner's Act, I amdesired to state that you may take necessary action to move the High Court in the matter at an early date.

"copy"

District Magistrate,

Chitaldrug District.

D.O. No.P3413.

26th November 1959.

Dear Sir,

With reference to your D. Letter No.J.C.8/59-4 of the 19th instant to the Chief Secretary to Government I am desired to state that Government have no objection to your coming to Bangalore for a day to consult the Government Advocate in the matter of taking necessary action against Mr. Nijalingappa under the Legal Practitioners' Act.

Yours sincerely,

BKR

Mahomed Ismail Sheriff, Esq., B.A.,
District Magistrate, Chitaldrug.

13496/39 P.D.

Office of the Deputy Commissioner,
Chitaldrug District,
Dated, Chitaldrug 28th November 1939.

Mr. Mahomed Ismail Sheriff, B.A.,
Deputy Commissioner

D.O. C.C.8/39-40.
Encl: One.

29/11/39 29/11

Dear Sir,

With reference to your letter NO.P.3079 dated 17th November 1939 asking me to take action against Mr. Nijalingappa under the Legal Practioner's Act and letter NO.P.3413 dated 20th November 1939 from the Government, permitting me to go to Bangalore for a day to consult the Government Advocate and take necessary action in this direction, I write to - state that I proceeded to Bangalore and consulted the Government Advocate and others. As action has got to be taken under Section 10 of the Legal - Practioner's Act by the High Court and as the conviction has already been secured which has not been challenged either inappeal or revision and the - sections under which the conviction has been secured are such as imply a defect of character which unfits him to be legal practioner, I propose making the enclosed report to the High Court. No action under Section 11 to call for the explanation of Mr. Nijalingappa or framing a charge is necessary in this case. The Government Advocate thought that I might wait till the term of imprisonment of accused was over. I however do not think it necessary to do so. Further as Mr. Nijalingappa was practising in this District as an advocate of the High Court and as he has been convicted of offences implying defect of character, I think it is necessary to report to the High Court the facts leaving it to the High -

(next page please

Court to take such action as they deem proper. I propose to mark the communication ~~also~~ confidential.

I request the favour of kind instructions if the enclosed letter to the Registrar may be sent by me.

Yours sincerely,

C. SUBRAHMANYA AIYAR, ESQ., B.A.,B.L.,
Secretary to Government of Mysore
Law Department, BANGALORE.

NO.

Office of the Deputy Commissioner,
Chitaldrug District,
Dated, Chitaldrug November 1939.

CONFIDENTIAL

From
Mahomed Ismail Sheriff, Esq., B.A.,
District Magistrate,
Chitaldrug District,
Chitaldrug.

To
T. Shamiyengar, Esq., B.A., B.L.,
Registrar, High Caurt of Mysore,
Bangalore.

NO.
Dated

Sir,

Subject:- Conduct of Mr. S. Nijalingappa Advocate, Chitaldrug, who has been convicted of the criminal offences implying a defect of character rendering him unfit to be a legal practioner.

-:0:-

I have the honor to report for the information of the High Court that Mr. S. Nijalingappa has been an advocate of the High Court and has been practising in Chitaldrug for some years. He was found concerned in criminal offences and was charge-sheeted by the Police along with 14 others under Sections 148, 149, 447, 426, 353 I.P.C. and section 35, Mysore Forest Act read with Government Order 1 and 2 thereunder, for abetment and participating in unlawful activities. The First Magistrate, Chitaldrug, who tried the case, has found him guilty of the following offences:-

"The accused has been found guilty of rioting under Section 147 I.P.C., and also of being constructively guilty of offences under Sections 426, 447, 353 of the Indian Penal Code, and Rule 12 of the Rulesunder Section 35 of the

(next page please

Mysore Forest Act, all the Sections being read with Section 149 of the Indian Penal Code(vide para 7 of the Judgment)".

He has been convicted and sentenced as follows under the various Sections:-

"To suffer rigorous imprisonment for eighteen months for the offence under Section 147 of the Indian Penal Code., And to pay a fine of Rs. 500/- for the offence under Section 147 of the Indian Penal Code and in default of payment of such fine to suffer rigorous imprisonment for six months sentences to run consecutively.

I enclose to this report a copy of the entire judgment for favour of ready reference which explains all the facts of the case. File of records is also submitted for ready reference.

Mr. Nijalingappa was convicted and sentenced on 29th September 1939. The time for appeal is over. The Magistrate has gone through the case carefully and given a finding which has not been challenged. In the course of the Judgment, the Magistrate has observed as follows:-

"the accused has no doubt professed adherence to the principle of non-violence according to the written statements but it is clear from the evidence on record and by - their own admission that they have committed violence by trespassing on Government land with the criminal intention of cutting date trees with the full knowledge that such cutting would injure -

Government property and result in damage and loss to the Government. It is not possible to see how such acts can be characterised as non-violent. Trees belonging to others can only be cut either by stealth or violence without their consent and all the accused were in a position to know that they could not achieve their object of cutting the trees - without violence. An incitment to cut trees on Government land made by any person or organization is certainly an incitement to violence and that too of a very dangerous character. It is almost certain to involve a scuffle with the persons entrusted with the care of such trees as it has done in this case and assaults become inevitable under such circumstances. All the accused have, therefore, to take full responsibility for the violent acts disclosed in the present case. Mr. S. Nijalingappa, accused 9, is a prominent Advocate of the - local Bar and as such, and as an officer of the court he is expected to respect the law and to support the same. On the other hand he has chosen to defy the law and has thus given a wrong lead to the other accused and to the public".

(next page please

As the offences under which he has been convicted and sentenced imply a defect of character which unfits him to be a legal practioner, I request that the High Court may be pleased to take such notice of this, as they may deem fit(under the provisions of the Mysore Legal Practioner's Act).

I have the honor to be,
Sir,
Your most obedient servant,

W J Hewett

DISTRICT MAGISTRATE
CHITALDRUG DIST.

vr.

D.O. No. P 4005 89-12-39

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

Dear Sir /

With reference to your D.O. letter No C.C. 8/39-40 Dy 28.11.1939 forwarding a draft of a letter proposed to be addressed by you to the High Court in regard to the action to be taken against Mr. Nitalingappa under the Legal Practitioners Act,

I am desired to State that the draft of the letter referred to above is suitable and the same may be forwarded to the High Court.

Yours Sincerely

DSR

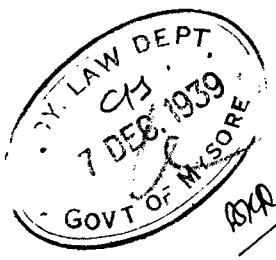
Mahomed Ismail Sheriff Esq BA
D.C. Chittoor.

WD 0282—GPB- 22,500—14-3-38

3726 3839

Mr. Mahomed Ismail Sheriff, B.A.,
Deputy Commissioner
D.O. No. C.C. 8/39-40-E,

Office of the Deputy Commissioner,
Chitaldrug District,
Dated, Chitaldrug 6th December 1939.



Dear Sir,

Subject:- Taking action against Mr. S. Nijalingappa under the Legal Practioner's Act.

-:O:-

In continuation of my D.O. letter NO.C.C.8/39-40 dated 28th November 1939 on the above subject, I write to enclose herein for the information of Government an extract from D.O. letter NO. 421/4-12-39 received from the Government Advocate in the matter.

Yours sincerely,

C. SUBBRAHMANYA AIYAR, ESQ., B.A.,B.L.,
Secretary to Government of Mysore
Law Department, Bangalore.

D.O. letter NO. 421 dated 4th December 1939 from the Governer Advocate, Government Advocate's Chambers, Bangalore, to the District Magistrate, Chitaldrug.

-:0:-

xx xx xx

As we discussed when we met last, the main point for consideration was when action should be taken. If the High Court should pass an order adversely to the person concerned, no effect can be givento it till the sentence is served which will certainly take some - considerable time from now. Inother words, the order will not have any immediate practical effect. In the case of Mr. Setlur of Tumkur who was sentenced to - rigorous imprisonment, action was taken after he served out the sentence and not while he was yet undergoing the sentence. Since you are making a report to the High Court, it is certainly for them to act as they think best in the circumstances.

xx xx xx

"EXTRACT"

DISTRICT MAGISTRATE
CHITALDRUG DIST.

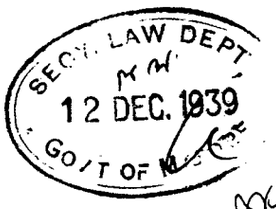
vr.

3869/p839

Mr. Mohamed Ismail Sheriff, B.A.,
Deputy Commissioner.

No. C.C. 8/39-40.

Office of the Deputy Commissioner,
Chitaldrug District,
Dated, Chitaldrug, 11th Dec. 1939.



Dear Sir,

Subject:- Taking action against Mr. S.Nijalingappa, Advocate, under the Legal Practioner's Act.

--

Adverting to your kind D.O.letter No.P.4005 dated 9th December 1939 on the aobve Subject, I write to state that I have thid day forwarded the draft letter approved by Government with connected records to the Registrar, High Court of Mysore, Bangalore for favour of taking further ~~action~~ necessary action.

Yours sincerely,

To

C. Subrahmanya Aiyar, Esq., B.A., B.L.,.
Secretary to Government,
Law Department,
Bangalore.

No.P4381-4/C6

29

Sir,

I am directed to invite reference to my ... letter ...54-55/... dated 23rd October ... in regard to the action to be taken against certain ... who ... under the ... Municipalities Act and to enquire what action has been taken on the ... letter.

The ... is requested to reply by ... .

Yours obediently,

To the District Magistrates of
Bangalore, Mysore Tumkur and Shimoga.

No P 4381-4/C5 dt 23-12-39

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

Dear Sir

I am desired to invite reference to my D.O. letter No P $\frac{34}{35}/37$ Dt 23.10.1939 in regard to the action to be taken against certain Advocates under the Legal practitioners Act and to enquire whether any action has been taken in the matter

The favour of an immediate reply is requested.

Yours sincerely

To DOYR 30-12-39

Mr A. A. Khan Esq BA
DM Bangalore

(2) K. Ekka Rao Esq BA
DM Mysore

(3) K Gurumurthi Esq BA
DM Tumkur

4) M. Sohani Esq M.A
D.M. Chitaldrug

WD 0436—GPB—10,000—17-10-33

Mr. K. Guru Dutt, B.A.,
~~MR.M.VENKATESAYYENGAR~~,
DEPUTY COMMISSIONER.

Confidential.

D. O. No. CC. 96/39

1425935

3496

OFFICE OF THE DEPUTY COMMISSIONER,
TUMKUR DISTRICT.
Camp Kallambella,
Dated, ~~Tumkur~~, the 1st January 1940.

2. JAN. 1940

PROTECTION BRANCH.

28/12

Dear Mr. Poonegar,

With reference to your D.O. letter No.P.4381-4/Cts. dated 28/29-12-1939 in the matter of taking action against Mr. T. Subrahmanya, Advocate, under the Legal Practitioners Act, I write to state that on receipt of the original communication I collected all the material against the person in the shape of reports of speeches etc., and sent it to the Government Advocate for his opinion. I received it some time ago, and since then I have been touring on account of Jamabandy. I am returning to headquarters today and I shall take early action to address the High Court in the matter.

Yours sincerely,

K. Pheroze Shaw Poonegar, Esq., B.A.,LL.B.,
Assistant Secretary to Government,
General & Revenue Secretariat,
Bangalore.

4415 pg 39

Mr. Abdul Aziz Khan,
Deputy Commissioner

IMMEDIATE AND CONFIDENTIAL

REV. SECRETARIAT

DEPUTY COMMISSIONER'S OFFICE,
BANGALORE,
Dated 2-1-1940 193

D.O. J.C. No 8
39-40.

DEWAN'S OFFICE
5 JAN. 1940
No. 4777

OFFICE OF THE
JOINT SECRETARY TO GOVT.
JAN 4
No. 6344

Dear Sir,

In reply to your letter No.P. 4381-4/C.B. dated 26/29th December 1939 re. the action to be taken against certain Advocates under the Legal Practitioners' Act, I write to state that I have examined the History Sheets of Messrs. K.T. Bhashyam Iyengar and T. Siddalingiah. The Government Advocate who was consulted in the matter has furnished his opinion that their conduct attracts the provisions of the Legal Practioners' Act. I am making a reference to the High Court for taking action against them. As regards Mr. N.C. Thimma Reddy, the Deputy Commissioner, Kolar District, has written to me that action against him does not appear to be necessary just now as he is undergoing 2 years' imprisonment in the Central Jail and I agree with him.

Yours sincerely,

A.A. Khan

Kajasevaprasakta
B.T. Kesavaiengar, Esq., B.A.,
Chief Secretary to the Government
of Mysore, Bangalore.

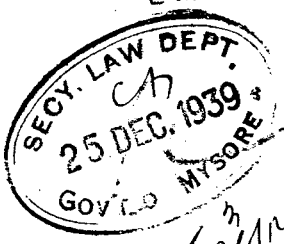
4224/839

Mr. Mahomed Ismail Sheriff, B.A.,
Deputy. Commissioner.

OFFICE OF THE DEPUTY COMMISSIONER,
CHITALDRUG DISTRICT.

D.O. C.C.8/39-40
Encl. One

Dated Chitaldrug, 22nd. December 1939.



28/12

Dear Sir,

Subject:- Taking action against Mr. S. Nijalingappa, Advocate, under the Legal Practioner's Act

-:0:-

In continuation of my D.O. letter of even number dated 10-12-39 on the subject referred to above, I write to enclose herein for favour of information of Government a copy of letter NO. R.O.C.686/39-40 dated 19-12-39 received from the Registrar, High Court in the matter and to request the favour of further instructions in the matter.

Yours sincerely,

C. SUBRAHMANYA AIYAR, ESQ., B.A., B.L.,
Secretary to Government of Mysore,
Law Department, Bangalore.

Letter NO. R.O.C. 686/39-40 dated 19th December 1939 from the Registrar, High Court of Mysore, Bangalore, to the District Magistrate, Chitaldrug.

-:0:-

With reference to your letter NO. C.C.8/39-40 dated 10-12-39 submitting the records in C.C.NO. 23/39-40 on the file of the Special First Magistrate, Chitaldrug, and recommending that suitable action may be taken under the provisions of the Legal Practioners' Act against Mr. S. Nijalingappa, Advocate, who is accused NO. 9 in the case, I have the honor to state that you should report this matter again as soon as the Advocate is released from prison.

The receipt of the records which are returned may kindly be acknowledged.

"COPY"

DISTRICT MAGISTRATE
CHITALDRUG DISTRICT.

vr.

D.O.No. C.C. 50/39-40

4392/p 35

Mr. M. SESHADRI, M.A.,
Deputy Commissioner.

OFFICE OF THE DEPUTY COMMISSIONER,
SHIMOGA DISTRICT,

Shimoga, dated the 3rd January.....*19* 40

3/1/40

Dear Sir,

With reference to your D.O. letter No. P. 4381-4/Cts. dated 28/29-12-1939, regarding the action to be taken against Mr. Siddaiya under the Legal Practitioners' Act, I write to say that I have made a reference to the High Court on this subject on 25-12-1939.

Yours sincerely,

M Seshadri

K. Pheroze Shaw Poonegar, Esq., B.A., LL.B.,
Assistant Secretary to Government,
General & Revenue Secretariat, Bangalore.

D.O. No. P 4893

19th January 1940.

Dear Sir,

With reference to your D.O. letter No.CC 8/39-40 dated 22nd December 1939 forwarding a copy of a letter dated 19th December 1939 received from the Registrar, High Court requesting you to make a report to the High Court in the matter of taking action against Mr. S. Nijalingappa soon after his release from Jail, I am desired to state that action may be taken by you in the matter in accordance with the instructions issued to you by the High Court.

Yours sincerely,

BKR

Mahomed Ismail Sheriff, Esq., B.A.,
District Magistrate, Chitaldrug

Appendix F G—1]

SUBJECT... .....

.....

.....

Diary No. of letter replied to..... .....

General and Revenue Secretariat

( )

the *193*

Date of issue 19/1/40

Signed by Mr. BKR.

List of enclosures..... .....

Copied by.....

Examined by.....

Section

File No.

Serial No.

No. P 4893

To

Dear Sir

With reference to your D.O. letter No CE 8/39-40 Dy 22.12.39 forwarding a copy of a letter Dy 19.12.1939 received from the Registrar High Court requesting you to make a report to the High Court in the matter of taking action against Mr S. Nijalingappa Soon after his release from Jail, I am desired to state that action may be taken by you in the matter in accordance with the instructions issued to you by the High Court.

Yours sincerely

WD 0563—GPB—30,000—6-1-39

Md Ismail Sheriff Esq Retd
Dist. Chitaldrug.

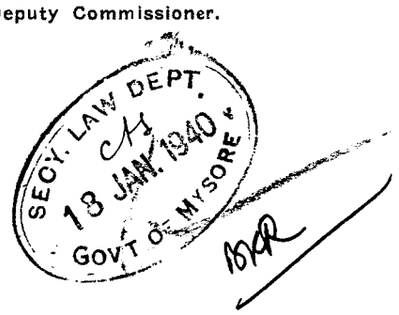
BKR
15.1.40

4736 p039

D. O. No. C.C. 50 /37-40
Enc: one

Mr. M. SESHADRI, M.A.,
Deputy Commissioner.

OFFICE OF THE DEPUTY COMMISSIONER,
SHIMOGA DISTRICT.
Camp: Anaveri,
Shimoga, dated the.....16th January.....*19* 40.



Dear Sir,

With reference to correspondance ending with my D.O. letter No. C.C. 50/39-40 dated the 3rd instant regarding the action to be taken against Mr. H. Siddaiya under the Legal Practitioners' Act, I am sending herewith a copy of the reply received from the High Court on my reference. I shall report the matter again in time to the High Court.

Yours sincerely,

M Seshadri

C. Subrahmanya Aiyar, Esq., B.A., B.L.,
Secretary to Government, Law Department, BANGALORE.

Confidential D.O. letter No. R.O.C. 789/39-40 dated 8th January 1940 from the Registrar, High Court of Mysore to the District Magistrate, Shimoga.

****

With reference to your No. C.C. 50/39-40 dated 24th December 1939, requesting the High Court to take disciplinary action under section 10 and section 11, Cl. (f) of the Legal Practitioners' Act against Mr. H. Siddaiya, Advocate, I am directed to request you to report the matter again a month before the sentence passed on the Advocate in C.C. No. 5 of 38-39 on your file expires.

****

"Copy"

District Magistrate,
Shimoga District.

CONFIDENTIAL

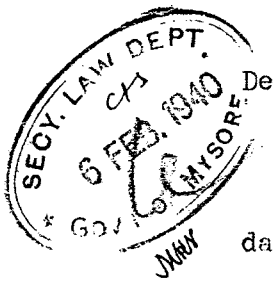
5188/39

MR. K. GURU DUTT, B.A.,
DEPUTY COMMISSIONER,

OFFICE OF THE DEPUTY COMMISSIONER,
TUMKUR DISTRICT.

D. O. No. Je 182/39-40

Dated, Tumkur, the 5th February 1940.



Dear Sir,

With reference to your D.O. letter No.P.37/Cts. dated the 23rd October 1939 in the matter of making a reference to the High Court to take notice of the conduct of Mr. T. Subrahmanyam, Advocate, under the Legal Practitioners' Act, I am enclosing herewith for the information of Government a copy of the reference made by me to the High Court in that behalf.

Yours sincerely,

K. G. Dutt

C. Subrahmanya Aiyar, Esq., B.A.,B.L.,
Secretary to Government,
Law Department, Bangalore.

No.
Enc.

OFFICE OF THE DISTRICT MAGISTRATE,
TUMKUR DISTRICT,

Dated Tumkur, the 5th February 1940.

FROM

K. Guru Dutt, Esq., B.A.,
~~E. V. GANAPATI IYER, Esq., B.Sc.~~
District Magistrate,
Tumkur District.

To

T. Shamiengar, Esq., B.A.,B.L.,
Registrar, High Court of Mysore,
Bangalore.

SIR,

Subject:—

I have the honour to submit this reference to the High Court to take notice of the conduct of Mr. T. Subrahmanya, advocate, in the exercise of its disciplinary jurisdiction under Sec.10 and 11 of the Mysore Legal Practitioners' Act III of 1884 as amended from time to time, and to state as follows:—

The aforesaid Mr. T. Subrahmanya is an advocate on the rolls of the High Court of Mysore who was practising at Tumkur. He was prosecuted for sedition in connection with a speech delivered by him at Tumkur and was convicted on 5th May 1939 by the District Magistrate, Tumkur (my predecessor) under Sec.124-A I.P.C., and sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs.300/- and in default to further rigorous imprisonment for a period of two months. He is at present undergoing the sentence in the Central Jail, Bangalore.

I am submitting herewith a copy of the judgment in the case as well as a copy of the speech which was the subject matter of the prosecution. Although the law does not intend to penalise any person for his political opinions, it is clear from decisions that a legal practitioner guilty of sedition is liable to be dealt with under the disciplinary jurisdiction of the High Court, and that misconduct or defect of character which will attract such disciplinary jurisdiction is not necessarily limited to conduct involving moral turpitude. (A.I.R.1933 Cal.731 and A.I.R. 1934 Lah. 251). The speech in question contains the following among other passages: "Because these people have behaved so, Government have arrested Siddiah and called him a traitor ರಾಜದ್ರೋಹಿ. All the 65 lakhs of people of Mysore must become traitors. It is only then we get salvation"; again "We must rush to jail and not give the Government any rest."; again "You must see that the Government is not in any way respected. You must not even respect the Government Officers" and again

"The ryots are dying of hunger. How long can we bend? We cannot bend further.....We must face this Government. We must end it. We must take the reigns of Government to our hand. The Government has no sense of shame or respect." The findings in the judgment as well as the contents of the speech make it obvious that the conduct of the legal practitioner in question, inciting the public to resist constituted authority and to disregard the penalties prescribed by law, is unworthy of an advocate who as an officer of the Court is bound to do all in his power to maintain respect for the law and for constituted authority, and appears to me to be such as would justify disciplinary action being taken against him by the High Court under the Act.

This view is strengthened if his previous activities are taken into consideration. He participated in the Civil Disobedience Movement in British India and it is ascertained that he was convicted under Sec.17(1) of the Criminal Law Amendment Act by the Subdivisional First Class Magistrate, Bagalkot and sentenced to suffer rigorous imprisonment for six months and a fine of Rs.100/- and in default rigorous imprisonment for one month. The appeal filed by him before the Sessions Judge, Bijapur was dismissed; and he underwent the full term of imprisonment, but paid the fine and got released. Convictions in connection with the Civil Disobedience movement have been held to imply serious defect of character within the meaning of Sec.12 of the British Indian Act, corresponding to Sec.10 of the Mysore Act. (A.I.R.1933 Cal.731). The conviction in British India may well be taken into account here for judging the conduct of this legal practitioner over a period of time. It has been held in British India that where the law is the same, and there has been a fair trial, a conviction by a foreign Court could be taken into account. (Vide 48.M.903 cited in the Law of Legal Practitioners in India by Ramlal Anand - P.41).

It is also seen that on 26-10-1937 he delivered a speech at Tumkur which was considered by Government to be seditious. A prosecution was launched against him on this account, but was later withdrawn under the orders of Government in February 1938, in connection with the amnesty given to certain political prisoners and the withdrawal of political prosecutions on grounds of public policy. Although the prosecution

for

for the speech delivered on 26-10-1937 was not pressed by Government, it will be seen from the copy of the speech which is also enclosed that its general trend and effect is such as to undermine respect for constituted authority which is entrusted with the administration of the law.

Conduct of the type specified above would also come under the purview of Sec.11 (f) of the Act which permits action being taken against a legal practitioner "for any other reasonable cause." A separate enquiry as provided in Sec.12 of the Mysore Legal Practitioners' Act appears to be unnecessary where the High Court is moved to take action under Sec.10 of the Act. Even where action is proposed to be taken under Sec.11 (f) of the Act, a Full Bench of the High Court of Mysore has held that action could be taken on a reference made by the District Magistrate, in a capacity otherwise than as a Court subordinate to the High Court. (Vide 36 Mys. H.C.R. page 229 et seq.). I therefore submit that the High Court may be pleased to take such action as may be deemed fit against the advocate under the Legal Practitioners' Act.

I have the honor to be,
Sir,
Your most obedient servant,
Sd/-K. Guru Dutt,

District Magistrate,
Tumkur District.

Copy

District Magistrate,
Tumkur District.

SS/-.

NOTE ON LEGAL PRACTITIONERS WHO HAVE BEEN CONVICTED.

1. MR. K.T.BHASHYAM AIYANGAR

Proceedings under the Legal Practitioners Act had been initiated against him once previously in 1931 and formed the subject of the decision of the Mysore High Court in XXXVI Mysore High Court Reports, 229. Disciplinary action was started on the ground that he made speeches which were calculated to incite the public to hatred and contempt of Government established by law in Mysore and in British India, to lead to disobedience of orders issued under Sec.144 of the Code of Criminal Procedure prohibiting processions and meetings, to advocate non-payment of taxes, to instigate students to cease attending schools and join the Satyagraha movement and to induce merchants and lawyers to express sympathy with that movement in observing hartal.

The High Court (Doraswami Iyer, C.J) held that

> " the conduct such as this would prima facie attract the application of the Legal Practitioners Act. But in view however of the advocate's assurance that he never wanted to convey the sense imputed to the words which he used and of the regret he has expressed should those words have been understood in a sense different from that which he intended to convey, the High Court do not consider that any further action is necessary in this case. "

Subsequently, he was convicted for an offence of sedition under Sec.124-A in 1937. This case also was the subject of a revision petition in the High Court. The conviction was confirmed by the High Court. The Judges have observed that a great deal of the speech made by him was vulgar, mean-spirited, malicious and lying.

He has now been convicted for wilful disobedience of an order under the Police Act. It is also in evidence that he incited defiance of the order of the District Magistrate, Kolar Gold Fields under the Police Act.

His conduct comes within the disciplinary jurisdiction of the High Court and they may be moved to take action against him.

2. MR. N.C.THIMMAREDDY.

3. MR.H.SIDDAIYA (Previously convicted under Section 70 M.P.A.)

4. MR. T.SUBRAHMANYAM (Previously convicted under Section 17 (1) of the Criminal Law Amendment Ac at Bagalkot (Bombay Presidency).

These persons have been convicted for the offence of sedition.

They may also be reported to the High Court for action.

5. MR. T.SIDDALINGIAH. (Also previously convicted under Section 70 M.P.A. and again under Section 73 and 70(A) M.P.A.)

He had been ordered to furnish security under Sec. 108 of the Code of Criminal Precedure previously and has now been convicted under the Police Act for disobedience of an order.

6. MR.A.G.BANDI GOWDA.

He has been convicted for the offence under Sec.188 I.P.C. for disobeying an order of the Magistrate.

These two cases (5 & 6) also may be reported to the High Court for action.

7. MR.H.C.DASAPPA (Previously convicted under S.124-A, IPC and under Ss.70 & 73 M.P.A.)

8. MR.S.RANGARAMIAH) Previously convicted under S.70 M.P.A.

9. MR. T.RAMACHAR.

10. MR.K.PATTABHIRAMAN.

11. MR.K.SAMPANGIRAMIAH.

12. MR.HENJARAPPA

These have been convicted for disobedience of an order under the Police Act. There is also in evidence that they themselves decided, and also incited the people, to defy the order of the District Magistrate, Kolar, prohibiting them from entering the Mines area.

13. MR. K.HANUMANTHAIYA. (Previously convicted under S.70 MPA

He has been convicted for an offence of disobedience of an order of the Magistrate.

14. MR.NIJALINGAPPA.

Convicted for forest satyagraha, mischief etc.

15. MR.T. MARIAPPA

(i) Section 107 Cr.P.C. and in undergoing imprisonme

(ii) Previously convicted under S.70 M.P.A.

16. MR.K.CHENGALARAYAREDDY.

(i) Undergoing imprisonment for an offence under S.73 M.P.A.

(ii) Previously convicted under S.70 (a) and 73 MPA.

17. MR. M.SHANKARIAH - Advocate, Mysore.

(i) Undergoing imprisonment for an offence under Section 188 I.P.C.

(ii) Previously convicted under Section 188 I.P.C

18. MR. GOVINDAREDDY - Advocate, Chitaldrug.

(i) Convicted under Section 73 M.P.A. on 15th August 1939.

In all these cases (7 to 18) the conduct of the advocates is such as would call for disciplinary action being taken against them.

All these people have sometime or other incited the people to desist from payment of taxes and committed breaches of laws.

Ce
15/11/39

NOTE.

I. The provisions of law empowering the High Court to control the conduct of legal practitioners are sections 10 and 11 of the Mysore Legal Practitioners Act. These correspond to sections 12 and 13 of the British Indian Legal Practitioners' Act and are very similar. The relevant portions of the sections are as follows:

> " Section 10.- The High Court may suspend or dismiss any legal practitioner enrolled under the following provisions who shall be convicted of any criminal offence implying defect of character which unfits him to be a legal practitioner.
>
> Section 11. - The High Court may also, after such enquiry as it thinks fit, suspend or dismiss any legal practitioner enrolled as aforesaid for any other reasonable cause."

For the application of Section 10

In the exercise of disciplinary jurisdiction under Sec. 10, the conviction for criminal offence cannot be questioned by the legal practitioner. But he can show that the conviction of the offence concerned does not imply a defect of character which unfits him to be a legal practitioner. The Privy Council has held in 22 Allahabad, 49 -

> " Whereas the propriety in law or in fact of the conviction cannot be questioned in the exercise of disciplinary jurisdiction, the Court has to inquire into the nature of the crime in order to decide whether the offence was of such a nature as to imply defect of character which would render the lawyers concerned unfit to be members of the legal profession."

II. Though a conviction may not be sufficient to bring the case under section 10 on the ground that it did not show a defect of character which unfitted a person to be a pleader, still his conduct in the acts for which he was convicted may bring him within the disciplinary jurisdiction under section 11(f) of the Act, the words "reasonable cause" being wide enough to cover such cases. In the case of G, a pleader, (A.I.R. 1929 Rangoon.352) it was held that the conviction of the petitioner was not in itself sufficient to show a defect of character which unfit him to be a pleader within the meaning of section 12 of the Legal Practitioners Act but the conduct of the pleader which brought him under the disciplinary section 11(f) of the Act. (Vide also A.I.R. 1931 Patna 369 - at page 375).

III. Action under section 11(f) for reasonable cause may be taken against a pleader convicted of criminal offence if the acts committed by him amount to misconduct, i e., such conduct as the Court considers to render him unfit to be a legal practitioner.

IV. For the exercise of jurisdiction under section 11 it is not necessary that the legal practitioner should have done something which has subjected him to anything like general infamy or imputation of bad character.

V. The circumstances to found jurisdiction under section 11(f) are not confined to acts done in professional capacity. (A.I.R. 1922 P.C. 351).
He is equally amenable to the jurisdiction of the courts if the acts of which objection is taken have been done out of his professional duties.

VI. The principles emerging from the decided cases for disciplinary action in respect of legal practitioners taking active part in breaches of laws or subversive movements appear to be these:

(1) The mere holding of certain views and even expressions of such views in language however emphatic or strong is no ground for taking disciplinary action against a legal practitioner;

(2) the mere conviction for an offence is not sufficient but the Court must look into the nature of the act on which the conviction is based to decide whether the legal practitioner is an unfit person to remain in the profession:

(3) a legal practitioner is a part of the machinery provided for the maintenance of order and the enforcement of the law of the land. It is therefore inconsistent with the duties as a legal practitioner to incite others either to boycott the Court or to break the law which it is the duty of the Courts to administer. Those who live by the law cannot preach the breaking of the law.

(4)Organized breach of the peace or incitement to acts tending to subvert order is a 'reasonable cause' to suspend or remove a legal practitioner;

(5) Acts involving moral turpitude or which imply general infamy make a legal practitioner unfit to remain on the rolls of the Court.

(6) A mere conviction under section 124 A does not necessarily involve the removal or suspension of a legal practitioner, but the Court must ascertain and take into consideration the facts on which the conviction is based. (1934 Lahore 251)

VII. The following acts on the part of legal practitioners have been held to bring them under disciplinary jurisdiction:

(1) Taking a pledge to break laws or refusal to obey laws;

(2) Speech inciting people to break the laws or to incite them to acts tending to subvert order; this is inconsistent with the duty of a legal practitioner to assist in the administration of the laws of the country;

(3) Inciting an audience to defy orders of dispersal or inciting to do acts which involve a breach of the peace;

(4) Incitement to non-payment of taxes or other notified liability, etc;

(5) Advising people to close their shops as a protest against the contemplated imposition of a system of license tax;

(6) Inciting or counselling the public to boycott the Courts;

(7) Deliberately joining or continuing to be a member of an association which has been declared unlawful under the provisions of a statute;

(8) Illegal acts committed in pursuance of Salt satyagraha or Forest Satyagraha and incitement to such acts:

(9) Joining the civil disobedience movement the object of which is to paralyze the Government by disregarding law and order by civil methods;

(10) Advising disobedience of magisterial orders under Sec. 144, etc.;

(11) Exhorting students to join Satyagraha movement:

(12) Conviction for holding a public meeting in defiance of an order of the Government or the Police prohibiting such a meeting;

(13) Conviction for disobeying an order of internment under the Special ~~Powers~~ Powers Emergency Ordinance. (A.I.R. 1934 Calcutta, 242);

(14) Convictions under Sec. 17 of the Criminal ~~Law~~ Amendment Act and for offences under sections 124 A and 153 A. They undoubtedly imply a defect of character in a legal practitioner. (A.I.R. 1935 Calcutta 742)

VIII. The sound principle for the guidance of legal practitioners to regulate their conduct has been laid down by Macleod C.J., in A.I.R. 1920 Bombay 168 in re Jivanlal v. Varajray Desai:-

> " Their duty as pleaders and advocates under their Sanads is to advise their clients to the best of their abilities as to what the law is and not as to what the law should be in their opinion. This conflict will become more pronounced if any of the legal practitioners had occasion to advise his clients regarding one of the laws to be denounced. A very sound principle to remember is that those who live by the law should keep the law".

This decision has been followed in several cases with approval and also by the High Court of Mysore in the case of the District Magistrate, Bangalore v. K.T. Bhashyam (XXXVI Mysore High Court Reports, page 236)

But in re Jamshed Byramji Kanga v. Kaikhushru Bomanji Bharucha (A.I.R. 1935 Bombay 1 - Full Bench) Beaumont, C.J., has struck a note of dissent in regard to the dictum of Macleod C.J. He has stated:

> " Nor are we prepared to accept what Sir Norman Macleod described as a very sound principle namely that those who live by the law should keep the law. In our opinion, the obligation of obedience to the law is neither greater nor less in the ca e of lawyers than of other citizens. If the so-called principle means that those who earn their living by the practice of the law must cease so to do if they break the law, the condition is one which should be imposed under legislative authority when the advocate is admitted and not invented afterwards by the Courts."

This is the obiter of Beaumont, C.J., though he agrees with the general principles guiding the conduct of legal practitioners. When this decision of Beaumont, C.J. went before the Privy Council in A.I.R. 1935 P.C. 168, their Lordships confirmed the dicision on the merits. They held that the action of the High Court in ~~thus~~ exercising their jurisdiction was not such as need be considered further and observed that to avoid all misapprehension they think it right to add that they must not be taken to endorse all the views which are expressed in the judgment of the learned Chief Justice and his colleagues.

Thus, even this decision of the Bombay High Court which in some of the arguments runs counter to the views ~~x~~ held in the other decisions cannot be considere to be authoritative in view of the observations of the Privy Council when the Bombay decision went in appeal before them.

List of lawyers convicted in connection with the Satyagraha movement.

Name	Offence.	Court	Nature of sentence.
H.C.Dasappa Advocate, Mysore.	73 M.P.A.	Spl. 1st Class Magistrate.	3 months R.I.
K.Chengalaraya Reddy, Bowringpet.	do	do	do.
K.T.Bhashyam Iyengar.	do.	do.	do.
S.Rangaramaiya	do.	do.	do.
T.Ramachar.	do.	do.	do.
K.Pattabhiraman, Kolar.	do.	do.	do.
K.Sampangiramaiya Chikballapur.	do.	do.	do.
Henjerappa, Madhugiri	do.	do.	do.
T.Siddalingaiah, Dodballapur.	do. and 70 M.P.A.	Spl. 2nd Class Magis. Tumkur.	Fine of Rs.200/- in default 1 month's S.I. and 2 months S.I.
H.Hanumanthiya Bangalore .	do.	do.	do.
A.G.Bandy Gowda, Seringapatam	188 I.P.C.	1st City Magis. Mysore.	6 months R.I. and fine of Rs.500/- i.d. 1½ months R.I
H.Siddaiya. Shimoga.	124-A	Dt. Magistrate, Shimoga.	18months R.I. and Rs300 fine i.d. 3 months R.I.
T.Subrahmanyam Tumkur.	do.	Dt. Magistrate, Tumkur.	1 years R.I. and fine Rs.300 i.d. 2 months R.I.
N.C.Thimma Reddy. Dodballapur.	do.	Addl. Sessions Judge, Bangalore	2 years R.I. and fine of Rs. i.d. 6 months R.I.
Mahabala Rao, Mandya.	do.		(Case pending)

				do.
				do.
				do.
				do.
				do.
				do.
				do.
				do.
				do.
				do.

Legal Notes - Legal Practitioners

369.

A.I.R.1931 Patna Full Bench.

1. In the matter of Rajendra Nath, (1889) 22 Allahabad. 49

"Whereas the propriety in law or in fact of the conviction cannot be questioned in the exercise of disciplinary jurisdiction, the Court has to inquire into the nature of the crime in order to decide whether the offence was of such a nature as to imply defect of character which would render the lawyers concerned unfit to be members of the legal profession".

A.I.R. 1931 Nagpur 33 Special Bench.

1 (a). In Shankar Ganesh Dabir v. Secretary of State (A.I.R.1922 P.C.35

"It appears that the petitioner was on 3rd May 1921 bound over by the Subdivisional Magistrate at Basim to keep the peace for a period of one year, and that order was confirmed by the District Magistrate and by the Court of the Judicial Commissioner. The offence which he had committed was connected with an agitation against payment of the mahar baluta, and it appears that in the course of such agitation he did not confine himself to protest, however vehement, against the tax, or against its injustice, but that he urged an organised resistance to payment, and attempted to establish a system which would ah have impeded and might have defeated its recovery with grave danger to the public peace. These circumstances led to the conviction to which reference has been made and caused his conduct as a pleader to be brought before the Court in their jurisdiction under the Legal Practitioners Act of 1879. Their Lordships are of opinion that the circumstances to which they have referred were sufficient to found jurisdiction under S.13 sub-S.(f) of that Act, which is not confined to acts done in a professional capacity, and for these reasons they think that no leave to appeal ought to be granted in this case and they will humbly advise His Majesty accordingly."

369

A.I.R. 1931 Patna Full Bench.

2. Emperor Vs.Rajani Kanta Bose (A.I.R.1922 Calcutta, 515)

"A special bench of the Calcutta High Court held that it is inconsistent with the duties of a pleader to join in a hartal to boycott the Court, his duty being to co-operate with the Court in the orderly and pure administration of justice. In the circumstances of the case and regard being had to the cases being first of the kind the Court dealt with the pleaders leniently and gave them a warning."

3. In re: Second Grade Pleader (A.I.R.1924 Madras, 129)

"I want to make it as clear as I can, that speaking for myself, the last thing that I think that we should consider ourselves concerned with in the ordinary way is what the political opinions of anybody are, whether they are members of the legal or any other professions. But while the Courts will always uphold the liberty of the subjects in thought or speech an applicant who comes to ask for the issue or renewal of a sanad is applying to be treated as a part of the machinery for the maintenance of law and order in the body politic and to take an active part in administering for the other subjects of the Crown the benefits that may be supposed to result from the upkeep of law and order. It is intolerable and illogical that a man should seek that law and order should be disobeyed, that taxes are not to be paid and that all public offices are to be abandoned in order to paralyze the very life of the body politic, apart altogether from any other views he may entertain as to the desirability of the personal or particular members of the Government he attacks or the particular character of the transaction carried on in these Courts. With these matters I have nothing to do. But I feel assured that this Court could not without stultifying itself issue a certificate to a man who with the same breath that he is asking for it, cuts himself off and announces his intention to do his best to cut off others from the life of the State."

In the matter of Two Pleaders (A.I.R. 1933 Cal. 731)

" The offence for which they, (the pleaders) were convicted as already indicated involved serious defect of character since they were directed against obedience of law which it is the duty of the Courts and members of the legal profession to maintain."

" The pleader was convicted and sentenced to one year's rigorous imprisonment for refusing to give security under S.108, Criminal P.C. having made speeches inciting the people not to pay taxes and to boycott the English Courts. He applied for renewal of his certificate under the Legal Practitioners Act. The District Judge brought to the notice of the High Court of Madras the facts leading up to his conviction. The High Court issued notice to the Pleader under Sec. 13(f), Legal Practitioners Act, directing him to show cause why he should not be dealt with under the disciplinary jurisdiction of the High Court. In showing cause he expressed no regret for the tone of his speeches nor did he give any promise for future behaviour. The Court refused to renew the certificate, permitting him to apply again for the certificate on his satisfying the Court of a genuine change in his attitude. "

(4) In re Jivanlal Varajaray Desai (1920 - 44 Bombay, 418)

" The legal practitioners concerned, two of whom were advocates, one was a vakil of the High Court of Bombay and three were pleaders, joined a movement called 'Satyagraha Sabha' which was started as a protest against the Anarchical and Revolutionary Crimes Act (Act 11 of 1919) and signed a pledge whereby they bound themselves:

> 'to refuse civilly to obey these laws and such other laws as the committee to be hereafter appointed may think fit.'

The District Judge of Ahmedabad brought the fact to the notice of the High Court and asked for orders of the High Court, as the question appeared to him to be general to all districts. The High Court issued notices upon the barristers and vakils under Cl. 10 of the Letters Patent and upon the pleaders under Cl. 56, Bombay Regulation 2 of 1837, which corresponds to S.13, Legal Practitioners' Act. The High Court held that the pledge signed by the legal practitioners amounted to a refusal to obey the laws referred to in the pledge, and although they as citizens had a right to criticize the laws and to take every means to induce the Government to withdraw them, they had no right to refuse to obey them so long as they were the laws of the country. However, in view of the fact that the Satyagraha Sabha had become quiescent and that it was not necessary to anticipate that anything

anything worse would follow, their Lordships contented themselves with giving the lawyers concerned a warning, leaving them to be dealt with more severely i their conduct should become worse."

~~XXVI, Mysore High Court Reports, pages~~ 236.

" In that case (Jivanlal Varajrai Desai) one of the pleaders contended that it was an inherent right of a citizen to protest against what he considered to be a retrograde legislation, by constitutional methods, and that he merely acted under that bonafide belief. In dealing with this plea, Heaton J. pointed out 'that professional lawyers belong to a privileged class, and they enjoy their privileges with the consent of the courts. But just as they enjoy special privileges, so they are under peculiar obligations. Moreover this Court is under special obligations in regard to them. Just as it licenses or permits them to practise as lawyers, so it is bound to see that they do not flagrantly abuse their privileges'. On this point, Macleod C.J. expressed himself thus: Advocates and pleaders are a privileged class, enrolled not only for the purpose of rendering assistance to the courts in the administration of justice, but also for giving professional advice for which they are entitled to be paid, to those members of the public who require their services. Their position, training and practice gives them immense influence with the public, and their example must necessarily have a much greater effect, whether for good or for evil, than the example of those who do not occupy this privileged position. It is not necessary, in order for us to be able to exercise our jurisdiction, that any offence should have been committed, nor is it necessary that what the respondents (advocates or pleaders) have done should have subjected them to anything like general infamy or imputation of bad character. Their duty as pleaders and advocates under their Sanads is to advise their clients to the best of their abilities as to what the law is, not as to what the law should be in their opinion. A very sound principle to remember is that those who live by the law, should keep the law."

Macleod, C.J., further observed:

" 'No one can reasonably object to the right of a citizen to express his opinion as to the merits or demerits of a legislative measure propoed to be adopted by the Government, and if he is opposed to it, to take every means to induce Government to withdraw it, provided he keeps within the bounds established by law.'

He differentiated between passive resistence and disobedience. The latter he held includes 'the doing something which is forbidden by law.' and added that 'hhether the disobedience is active or passive depends on the nature of he law which it is intended to disobey. Then he proceeded to observe that the Court was concerned with the conduct of the respondents not as citizens but as advocates and pleaders and:

' w have nothing to do with ~~xx~~ their poli ical views nor have we anything to do with the expression of opinion on their part, however strong , against any particular measure proposed by the legislature. But a public declaration made by an Advocate or a Pleader that he has bound himself civilly to disobey any laws which a committee to be thereafter appointed may think fit, appears to me to go very much further than a mere expression of opinion as to the merits of a bill proposed by the legislature." "

(5) In re Abdul Rashid (A.I.R. 1924 Lah. 123)

"'If an advocate or a vakil deliberately joins or continues to be a member of an association which has been declared to be unlawful under the provisions of a statute, he renders himself liable to disciplinary action by the High Court. He may not like a particular measure and he is entitled to protest against it and agitate for its repeal by all lawful means. But so long as it is the law of the land, it is his duty to obey it and not to act in defiance of its provisons.'

In that case the lawyers concerned were convicted and sentenced to six months R.I. under Sec-17 (1) Cr. law (Amendment) Act of 1908 for being members of the National Volunteers Association after it was declared to be unlawful under S.15 of the said Act. Considering however the fact that these were the first cases of the kind and that the lawyers concerned had no intention of causing a breach of the peace their Lordships thought that a warning to them would meet the ends of justice."

6. In the matter of Golak Nath De (A.I.R. 1931 Pat. 208)

"The pleader was convicted for having led a batch of Satyagrahis to the sea coast and not only instigated them to manufacture salt and break the Salt Law, but actually joined the operation of salt-making. He was first given a warning which proved ineffective and was then sent up and convicted and sentenced to six month's imprisonment under S.9, Salt Act. On a reference made to the High Court by the District Magistrate of Balasore under Ss.12 and 13 Legal Practitioners' Act, the High Court suspended the pleader for six months".

A.I.R. 1928 CALCUTTA 853

7. Emperor vs. Kisori Mohan Chaudhuri and others -

"The action of legal practitioners connselling the public not to attend Court and thereby interfering with the administration of justice amounts to misconduct within the provisions of S.13. of the Legal Practitioners' Act)."

"Though in the circumstances of this particular case we are not inclined to take any action we express our strong disapproval of the conduct of the pleaders concerned. A legal practitioner, as any other person, has a right to entertain political opinions which may or may not be acceptable to the authorities. But having obtained license to practice in Courts, if he acts inconsistently with the position which he has obtained by virtue of the license granted to him, he abuses it and brings himself within the four corners of the Legal Practitioners Act. Though in the circumstances of this case we refrain from taking any action it must be understood as a rule that the action of legal practitioners counselling the public not to attend Court and thereby interfering with the administration of justice is one which cannot be lightly dealt with."

369

A.I.R. 1931 PATNA 1 (FULL BENCH).

8. In the matter of the Pleaders Ram Gobind Sinha Verma and others

"The pleaders joined a movement started by the Indian National Congress called 'The Civil Disobedience Movement', the object of which was to paralyse the Government by disregarding law and order by civil methods, as distinguished from the method of force and violence. Pleaders Dharnidhar and Ram Charan Singh were prosectued for being members of an unlawful assembly in connection with the taking out of a procession on and what is called 'Jawahir Lal's Day' as a part of the civil disobedience movement, in spite of an order of the Magistrate forbidding it under S.144, Criminal P.C."

"Pleader Ramadhin Singh was bound down under S.107, Criminal P.C. to keep the peace for one year, as he was taking an active part in connection with the Civil Disobedience movement in organizing volunteers and in other activities such as, picketing of excise shops, instigating non-payment of taxes, etc., in his capacity as President and Dictator of the Monghyr Congress Committee, tending to a breach of the peace: vide the judgment of the Subdivisional Magistrate of Begus rai, dated 26th September 1930. Upon his refusal to give security he was committed to prison: vide his application to the District Judge of Monghyr, dated 23rd July 1931."

2 A resume of the aforesaid cases would show that the pleaders in question brought themselves by their conduct within the disciplinary jurisdiction of the Court, when being members of the civil disobedience movement they committed illegal acts in furtherance of that movement, took the law into their own hands and defied the order of constituted authority."

"In all the decisions referred to in this judgment acts similar to those committed by the pleaders in these cases were dealt with under S.13 (f), Legal Practitioners' Act, and we have no doubt that the facts and circumstances connected with the acts of which these pleaders were convicted or were bound down bring them within the disciplinary jurisdiction under S.13 (f) of the Act. The words 'reasonable cause' are wide enough to cover these cases "

"All these pleaders joined the civil disobedience movement, the object of which was to paralyse the Government by refusing to obey the law civilly and not by force or violence. The word 'disobedience' itself connotes the doing of something which is forbidden by law as was held in Re Jivanlal Varajaray Desai. Pleaders Dharni Dhar and Ram Charan Singh, who were convicted under S.143 I.P.C. for disobeying the orders of the Magistrate not to take out a procession, themselves claimed to be'civil resisters' which is another expression for 'civil disobedience', that is, doing a thing which is forbidden by law. Pleader Ramadhin Singh took an active part as a dictator and president of the Monghyr Congress Committee and was organising volunteers and other activities tending to a breach of the peace. He was bound down under S.107 Cr.P.C. He refused to give security and went to jail. The case is similar to the case of the Second Grade Pleader, Ramachandrapur and the Privy Council case of Shankar Ganesh Dabir v. Secretary of State where the pleaders were bound down under S.107 Cr.P.C. for making speeches and instigating people to disobey the law."

"It is thus clear that the pleaders in question by the illegal acts committed by them in connection with the civil disobedience movement which led to their prosecution and conviction and to the preventive action taken by the Magistrate under S.107 Cr.P.C. have brought themselves under the disciplinary jurisdiction of the Court vested under S.13 (f), Legal Practitioners Act, which gives to the Court a very wide discretion as held by their Lordships of the Judicial Committee in Re Sarvadhikari at p.45 (of 34 I.A.) and their application for renewal of their certificates must be treated as if it was an application for admission where the Court has to see whether they are proper persons to be officers of the Court and to be trusted with the interest of suitors as observed by Lord Blackburn and Lord Cockburn in In re Hill (1868 -3 Q.B.D.543)."

"Keeping this in view and considering the fact that this was their first offence of which they were convicted, that in none of the cases any violence was used or was attempted and regard being had to the fact that they had practically been under suspension up to now we think that a warning would be sufficient in the cases of pleaders Dharnidhar Das, Ramcharan Singh, Ramadhin Singh and Hari Shankar Das. With this warning we direct that their certificates be renewed."

"Pleader Sarjoo Prasad Singh was convicted under S.3, Police Incitement to Disaffection Act (Act 22, 1922) of having induced a police constable to withhold his services and deserves to be more severely dealt with. Accordingly we suspend him from practice for three months with effect from to-day, that is, up to 15th November 1931, when the civil Courts will reopen after the long vacation."

"It is thus clear that the High Court can <u>suo motu</u> take action for either suspension or dismissal of a pleader or can act upon the report submitted to it by the District and Subordinate Courts. There is nothing in the Act to prevent an action being taken by the practitioner being convicted of an offence committed in the course of the civil disobedience movement and of their having refused to give an undertaking not to engage themselves in any political or other activities of a kind subversive of Government as established by law was brought to the notice of the Court by the District Judges concerned and the petitioners in their own petitions to this Court asking to be heard in connection with the reference made by the District Judges admitted the above facts."

A.I.R. 1931 Nagpur 33 Special Bench.

9. Local Government v N.B. Deshpande.

The Government Advocate's application was in the following terms:

" that Mr. N.B. Deshpande is a pleader practising at Yeotmal, who holds a certificate issued under S. 7, Legal Practitioners Act of 1879;

that in pursuance of the civil disobedience movement he took part in a campaign for breaking the Forest Act as applied to Berar and the rules framed thereunder;

that he committed a breach of the said Forest Act by cutting and removing, without a permit, some branches of trees standing in the Chausala Government Forest of Yeotmal."

" Mr. Despande took part in an organized resistance to law and assisted a movement involving grave danger to the public peace. It is not material that he himself used no violence: for it was obvious that villagers were likely to follow the example of Mr. Despande and his fellows in breaking the forest law but not to refrain from violence. "

" The acts admittedly performed by Mr. Despande are sufficient to found jurisdiction under S.13, sub-section (f) Legal Practitioners' Act. "

" No one can be admitted to practice until he made a solemn declaration. It appears a proper inference that one who has contravened this declaration and is likely to do so in future, is not such a person. Macleod, C.J. in Jivanlal Varajray Desai laid stress on the duty of pleaders as officers of the court to tell clients to obey the law. He was considering the case of pleaders who had taken a certain pledge, but a pleader who has deliberately disobeyed the law and maintains that it is right to disobey the law is also incapable of giving his client proper advice. The learned Chief Justice has also laid stress on the undesirability of allowing persons, who occupy a privileged position in which

which they assist in the administration of justice to continue to occupy that position if such continuance increases the effect for evil of their example."

" It is not of great consequence whether the doctrine refers (Civil Disobedience) refers to disobedience of all laws or of some laws. Secondly, if Mr. Deshpande holds the view that it is desirable to disobey the law, he is likely to advise clients to break the law: he has given no assurance that he will not do so. Lastly, as Macleod, C.J. has pointed out in Jivanlal Varajray Desai in 1920 - 44 Bombay, 418 it is undesirable in the public interests to allow one who sets a bad example to occupy the privileged position of a pleader. There is reason to fear that Mr. Despande may again take part in concerted action to break the law, thereby causing grave danger to the public peace. "

" In my opinion it is desirable to suspend Mr. Deshpande until it is shown that he can resume practice without grave danger of evil consequences. Mr. Deshpande should be permitted to apply to the Court at any time after three months from the date of the order of suspension and his application should be considered by a Bench of two Judges. It would, in my opinion, be wrong to pass an order which would permit of Mr. Deshpande practising after a fixed period without giving an assurance that he has changed his views as it is impossible to say whether or not it would after a fixed period be less dangerous to allow a person holding such views to practise."

10. <u>In the matter of Rajendro Nath Mukerji</u> (1900 - 22 All.49)- page 3

" It is not by way of punishment but the courts in such cases exercise their discretion whether a man whom they have formerly admitted is a proper person to be continued on the roll or not."

A.I.R. 1933 Calcutta 731.

11. In the matter of the First Grade Pleader (A.I.R. 1924 Mad.479 F.B)

" While courts will not interfere with, or have regard to any man's political opinions, or opinions on public questions, it is impossible to allow a person who proclaims or practises what is called the doctrine of civil disobedience, to ask to be a part of the machinery of the Courts which exists for the very purpose of thwarting the of civil d sobedience."

12. In the matter of Two Pleaders.

" It appears from the materials before us that the pleaders were convicted for the offence of joining or continuing in an unlawful assembly, knowing that it had been commanded to disperse, and of knowingly joining or continuing in an unlawful assembly of five or more persons, after it had been commanded to disperse. They were members of a procession in connection with what is known as the Civil Disobedience movement and were convicted as such, for the offences mentioned above on 6th February 1932; the conviction was affirmed by this Court on 10th February 1933. It further appears that the pleaders were previously convicted in the year 1930, under Sec. 3 Ordinance 6 of that year, which provided for punishment of a person who by words, either spoken or written, or by signs or by visible representations, or otherwise instigated expressly or by implication, any person or class of persons, not to pay or to defer ·ayment of any notified liability and of a person who did any act with intent or knowing it to be likely that any words, signs or visible representations containing such instigation shall thereby be communicated directly or indirectly to any person or class of persons in a notified area, in any manner whatsoever. On these materials, regard being had to the nature of the offences for which the pleaders were convicted, there can be no doubt that the provision contained in S.12, Legal Practitioners Act, is applicable, inasmuch as the e··pression "defect

"defect of character" as used in the S.12 must, in our judgment, be taken to include not only moral turpitude, but also such defect in the character of a pleader, which renders him unfit to be a member of the honourable profession to which he belongs. "

" In view of all this, the pleaders in the case before us, have deliberately placed themselves in such a position as made themselves amenable to the disciplinary jurisdiction of this Court. The offences for which they were not convicted, as indicated already, involved serious defect of character, seeing that they were directed against obedience to law, which it is the duty of the Courts and of the members of the legal profession to enforce and maintain. There has been repetition of the offences on the part of the pleaders, involving open and deliberate defiance of law; and there is no expression of regret for their past behaviour. On the facts and in the circumstances of the case before us we have no hesitation in making the rule absolute. The pleaders Messrs. Babus and S and G. are suspended from practising as pleaders for the period of six months from 1st August next." ~~The order of suspension is~~

The Mysore High Court Reports, Vol. XXXVI. page 233.

13. The Dt. Magistrate, Bangalore v K.T. Bhashyam Aiyangar.

(Full Bench)

" The District Magistrate of Bangalore has brought to the notice of this Court, the implications and tendencies of certain speeches alleged to have been made by Mr. K.T. B. an advocate of this Court, at public meetings in Bangalore between 2nd May to 16th Aug. 1930, with a view to disciplinary action being taken against him, under the Legal Practitioners Regulation. It is pointed out in the reference that these speeches were calculated to incite the public into hatred and contempt of the Government, established by law in Mysore, and in British India, to lead to disobedience of orders issued under section 144 Criminal Procedure Code prohibiting processions and meetings, to advocate non-payment of taxes, to instigate students to cease attending schools and join the Satyagraha movement, and to induce merchants and lawyers to express sympathy with that movement by observing hartal. Extracts from the speeches in question have been furnished, and it is urged that the speeches will lead to the breach of the peace and contempt for law and authority. "

" The advocate admits, however, having advised the public on one or two occasions to peacefully disobey the prohibitory orders of the magistracy issued under Section 144, Cr. P.C. which he along with others considered to be an unjustifiable interference with the fundamental rights of citizenship. He also avows his belief in the observance of a peaceful hartal, as an inoffensive, yet effective, expression of public opinion on any question, and admits having exhorted the students to join the Satyagraha movement."

" In dealing with the conduct of an advocate in Mysore in the year 1889 for having advised certain shopkeepers to close their shops as a protest against the contemplated imposition of a system of license taxes, the Chief Court in reproving the advocate observed

observed as follows:

' We wish it to be distinctly understood by you, and by all the advocates of this court, that we consider ourselves to a great extent responsible to Government for the conduct of the advocates we enrol. We do not feel ourselves s restricted, in our dealings with advocates, to taking cognisance of acts of professional misconduct, such as are contemplated by the Legal Practitioners' Act. We consider that we, as the authority which enrols the advocates, have full power to disenrol any advocate who, in our opinion, has proved guilty of conduct which is discreditable to his position as an advocate. We are of opinion that you have by your action, in the late strike, rendered yourself to be disenrolled. Our enrolment of you, as an advocate of the Chief Court conferred on you certain privileges, and a certain status and position, which you would not otherwise enjoy. We warn you and we warn all the advocates of our court, that we shall exercise the most strict and watchful supervision of their conduct. We, as I have said, consider ourselves responsible to His Highness' Government, for the character and conduct of the advocates of the Chief Court whom we enrol and we shall not in future hesitate to disenrol any advocate, whom we consider to have been proved guilty of conduct unbecoming his position as an advocate.

" From his (Mr. Bhashayam's) own averments in his written statement, it would seem that he advised disobedience of magisterial orders on one or two occasions, and exhorted the students to join the Satyagraha movement. Conduct such as this would prima facie attract the application of the principles indicated above,, especially in Mysore, as set out in the Chief Court's Order of 1889, already referred to. In view, however, of the advocate's assurance that he never intended to convey the sense imputed to the words which he used and of the regret he has expressed, should those words have been understood in a sense different from that which he intended to convey, we do not consider that any further action is necessary in this case."

A.I.R. 1934 LAHORE, 259.

In the matter of Madhava Singh Vakil (A.I.R. 1923 Pat.185)

" He had been convicted under S.17, Cl.(2), Criminal Law Amendment Act, of 1908, The Patna High Court suspended him from practice for a period of six months remarking that a person in the position of a vakil is an officer of the Court and ought to uphold the preservation of law and order. The vakil, it appears, had attended a meeting of the sewak dal volunteers who had been been declared to be an unlawful association by the Local Government and had invited those present to enrol themselves as volunteers."

A.I.R. 1931 PATNA 208 (Full Bench)

In the matter of Golakh Nath De, a Pleader.

" He was convicted together with a humber of other people for an offence under the Salt Law which he committed by way of political demonstration and the offence was committed after warning. He was sentenced to rigorous imprisonment for a period of six months, and it is fairly presumable from the circumstances that having little or no professional business he devoted himself to this form of activity by way of occupation of his time. "

" It has been made abundantly clear by judgments of the Privy Council and of other High Courts that offences of this nature can clearly be dealt with under the Legal Practitioners' Act. He has addressed to this Court a letter, which is mildly contumacious and affords no excuse for his conduct. It is right that in the circumstances he should be brought to realize that the conduct of which he has been convicted is inconsistent with the duty of a professional lawyer; and we therefore suspend him for a period of six months from this date."

A.I.R. 1934 LAHORE. 259

In the matter of D. a pleader (AIR. 1932 Pat. 300)

" The pleader has been suspended after his conviction under the Salt Act and during the period of suspension he was again convicted under S.17 (1) of the Criminal Law Amendment Act, thereafter a notice was issued to him to show cause why proceedings should not be taken against him under the Legal Practitioners Act, and on his failure to appear to show cause his name was removed by the Patna High Court. "

At pages 260 and 261.

" Now, the principles emerging from a consideration of these cases appear to be these: (1) that the mere holding of certain views and even expression of such views in language however emphatic or strong is no ground for taking disciplinary action against a legal practitioner, (2) that mere conviction for an offence is not sufficient but the Court must look into the nature of the act on which the conviction is based to decide whether the legal practitioner is an unfit person to remain in the profession, (3) that a legal practitioner is a part of the machinery provided for the maintenance of order and the enforcement of the law of the land; it is, therefore, inconsistent with his duties as a legal practitioner to incite others either to boycott the court or to break the law which it is the duty of the courts to administer Those who live by the law cannot preach the breaking of the law, (4) that organised breach of the peace or incitement to acts tending to subvert order is a reasonable cause to suspend or remove a legal practitioner and (5) that acts involving moral turpitude or which imply general infamy make a legal practitioner unfit to remain on the rolls of the Court. I am leaving out of consideration the conduct of a legal practitioner which comes within the purview of what is understood to be professional misconduct and about which there can be no scope for holding different views. It follows from what I have stated above that the conduct of the legal

legal practitioner which subjects him to the disciplinary jurisdiction of the Court need not necessarily be connected with his professional activities. He is equally amenable to the jurisdiction of the Court if the acts of which objection is taken have been done outside his professional duties. I am further of opinion that any legal practitioner who offends against the above mentioned rules must be held guilty of misconduct.

Applying the above tests to the present case it seems to me that a mere conviction under S. 124 A does not necessarily involve the removal or suspension of a legal practitioner but the court must ascertain and take into consideration the facts on which the conviction is based. "

"In the second speech made on 14th April Dr. (Ansari) A went further and called upon the audience to break those laws which the All India Congress Committee orders to be broken. This, in my opinion, was a clear incitement to break laws which another body might decide should be broken and was inconsistent with the duty of a legal practitioner to assist in the administration of the laws of this country."

" The incitement to defiance of dispersal was an incitement to do acts which involved a breach of the peace. In my opinion, therefore the portion of the second speech in which the respondent incited the audience to break those laws which the All- India Congress Committee might declare should be broken and the portion of the third speech in which he exhorted the audience to resist orders for dispersal clearly bring his case within the principles stated above and attract the disciplinary jurisdiction of the Court and having regard to all the circumstances I think it would be sufficient if in this case we express our disapproval of the conduct of A and warn him against further conduct of a similar nature. As A has given us an assurance that so long as he is practising as an advocate of this court he will not actively incite others generally to break the law or incite them to acts tending to subvert order, no further action need be taken in these proceedings."

A.I.R. 1934 CALCUTTA 242(2)

In the matter of A, a pleader

" This pleader has been convicted twice, within the last three years, of what amounted to semi-political offences. The conviction under S.21 of Ordinance 2 of 1932 was for leaving the village where he had been ordered to reside. "

" The principle upon which we ought to proceed is that where a pleader wilfully breaks the law upon one or two isolated occasions, it may not be necessary for the Court to take any action under this section (S.12) of the Legal Practitioners Act. Where, on the other hand, it is shown that the pleader has wilfully and habitually broken the law, then the Court may quite reasonably come to the conclusion that his acts imply such a defect of character as to render him unfit for practice as a pleader, and in such a case the Court may dismiss him from practice. Where the acts of the pleader fall midway between the two extremes then the Court may take a more lenient view, and may think it sufficient to warn the pleader, by inflicting upon him a period of suspension or otherwise, that if he persists in breaking or defying the law such conduct will inevitably lead the Court to the conclusion that he is totally unfit to practise in the Courts which have been established to enforce the law."

A.I.R. 1935 BOMBAY 1. (at pages 2, 3 and 4)
In re Jamshed Byramji Kunga Vs Kaikhushroo Bomanji Banaji.

" It is not disputed that all three barristers were convicted by Presidency Magistrates under S.17(1) and (2), Criminal Law Amendment Act (23 of 1932), in that they had been members, and assisted, and managed the operations, of the Bombay Provincial Congress Committee Emergency Council, an association declared unlawful by the Gover ment of Bombay. All the barristers were sentenced to terms of imprisonment and fine. "

" In cases of professional misconduct it may sometimes be necessary that the Court should impose a penalty which is intended to be punitive, and to serve as a warning to other advocates. But in the case of misconduct which is not professional, in our opinion, the element of punishment should not enter into our consideration at all. It is no part of our duty to impose penalties for misconduct, unconnected with the exercise of the profession, which is either not punishable or has been, or can be, punished under the law of the land. The State imposes suitable penalties for the infringement of its laws, and provides proper sanctions for the enforcement of such penalties, and we see no reason why the disciplinary jurisdiction vested in this Court should be employed merely in aid of the criminal law. Advocates however are a privileged class enjoying a monopoly of audience in the Courts, and their position gives them considerable opportunities for good or evil. It is of the highest importance that the High Court should be invested with power to ensure that only advocates of good character shall be upon the roll, but it is also important that that power be in no way abused. In cases of misconduct involving moral turpitude the Court has to see whether the advocate has shown himself to be unworthy of the confidence of the Court, or unfit to be entrusted with the business of his client, or a person with whom his professional brethren cannot be expected to associate. But in our opinion cases involving moral turpitude are not the only ones in which the Court may be called upon to take disciplinary action.

" The Court has a right to expect a high standard of loyalty

loyalty to the Court and co-operation from the advocates on its roll. Cases may arise in which it is proved that an advocate has been engaged in revolutionary activities designed to destroy the system of which this Court forms part, or activities likely to hamper or embarass the administration of justice by this Court or any of the Courts subordinate thereto. Courts of law can only function under a stable Government, and the destruction of Government by revolutionary and unconstitutional means must of necessity involve the destruction of the Courts, or the grave impairing of their efficacy. What we have to consider in all these cases is the conduct of the advocate as it affects his position as an advocate and his relations to the Court. This Court will not tolerate upon its rolls an advocate who is endeavouring to destroy or undermine the authority of the Courts. Anyone who elects to engage in activities of that nature must do so without the authority and prestige attached to the position of an advocate."

"Nor are we prepared to accept what Sir Norman Macleod described as a very sound principle namely that those who live by the law should keep the law. In our opinion, the obligation of obedience to the law is neither greater nor less in the case of lawyers than of other citizens. If the so-called principle means that those who earn their living by the practice of the law must cease so to do if they break the law, the condition is one which should be imposed under legislative authority when the advocate is admitted and not invented afterwards by the Courts."

" It is enough to say that in our opinion merely having been members, or assisted the operations, or managed the affairs, of an unlawful association does not render the advocate unfit for the exercise of his profession. Such conduct does not necessarily involve moral turpitude, or any attack upon the system of which the Court forms part, or embarass in any way the administration of justice by the Courts of this Presidency."

A.I.R. 1935 PRIVY COUNCIL 168
(From Bombay : 1935 Bom. 1.7-B)

" It is plain that the Judges of the High Court held that the fact that the advocates concerned had been convicted of a criminal offence was evidence of their misconduct within the meaning of S.10(1), Bar Councils Act, and that this misconduct, though not committed in their professional capacity, entitled the Court to take disciplinary action against them. With this view, their Lordships agree. The learned Judges, in the exercise of their statutory discretion, then proceeded to consider whether in the circumstances the misconduct so proved called for any disciplinary action, whether in the nature of reprimand, suspension, or removal from practice. The Judges decided that it did not. So interpreted, the action of the High Court in thus exercising their discretion is not as His Majesty can be advised further to consider.

But to avoid all misapprehension their Lordships think it right to add that in so advising His Majesty they must not be taken to endorse all the views which are expressed in the judgment of the learned Chief Justice and his colleagues. In particular, their Lordships do not think that it was incumbent on the Advocate-General to adduce evidence of the grounds on which the convictions were based. It was for the Court to decide whether conviction, of having been a member and having assisted and managed the operations of an unlawful association having for its object interference with the administration of the law or with the maintenance of law and order and constituting a danger to the public peace, was evidence of such misconduct on the part of an advocate as to render him unfit for the exercise of his profession, or to call for the Court's censure. It was for the impugned advocate to adduce any consideration which might induce the Court to refrain from taking disciplinary action."

A.I.R. 1935 CALCUTTA 742

In the matter of N, a pleader.

" The case of a pleader convicted repeatedly for offences of a political nature has uniformly been dealt with severely by this Court. In the case before us, the pleader was not only convicted under S.17(1) and (2), Criminal Law Amendment Act, but was convicted for having committed offences under Ss.124-A and 153-A, Penal Code, and was once found guilty of an offence under S. 178, Penal Code. These convictions entail severe action as the undoubtedly imply defect of character in a legal practitioner; in addition to that, in the case before us, the conduct of the pleader, as mentioned above, in connexion with proceedings before the Court, must be taken to be highly reprehensible and must accordingly be dealt with very severely.

In view of the facts and circumstances of the case before us, strong disciplinary action is called for; and we accordingly direct that the certificate issued to N to practise as a pleader be cancelled, and he be dismissed."

A.I.R. 1936 MADRAS 318 (Special Bench)

In the matter of M.P.N. a Second Grade Pleader.

" The respondent was charged before him (Special Judge of Malabar) with the offence of waging war against the King, an offence under S.121, Penal Code."

" Convicting the respondent in respect of that charge the learned Judge sentenced him to transportation for life. The question now is, whether under S.12, Legal Practitioners' Act, the criminal offence of which he has been convicted implies a defect of character which unfits him to be a pleader. In considering this question two principles have first to be stated. One is that in such proceedings the respondent is not entitled to question the correctness of his conviction. Apart from the reported cases to which reference is not necessary, this has been the established practice of this High Court. The second principle is that the High Court has jurisdiction to take disciplinary action against a pleader though the criminal offence was not one committed in his professional capacity."

" Does this offence imply a defect of character, and if it does, does it unfit the respondent to be a pleader? Clearly a person convicted of so serious an offence against the State as this has a defect of character. How does his conduct affect his position as a legal practitioner and his relations to the Court?"

" The order of the court is that M.P.N. be dismissed from practice."